

CENTER FOR DISABILITY ACCESS  
Chris Carson, Esq., SBN 280048  
Dennis Price, Esq., SBN 279082  
Amanda Seabock, Esq., SBN 289900  
Mail: PO Box 262490  
San Diego, CA 92196-2490  
Delivery: 9845 Erma Road, Suite 300  
San Diego, CA 92131  
(858) 375-7385; (888) 422-5191 fax  
phylg@potterhandy.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson,**

Plaintiff,

v.

**Green Valley Corporation,** a  
California Corporation;  
**Alejandro Ramos;** and Does 1-10,  
Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of Green Valley Corporation, a California Corporation; Alejandro Ramos; and Does 1-10 ("Defendants"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

1       2. Defendant Green Valley Corporation owned the real property located at  
2 or about 705 Tully Rd., San Jose, California, in October 2018.

3       3. Defendant Green Valley Corporation owned the real property located at  
4 or about 705 Tully Rd., San Jose, California, in December 2018.

5       4. Defendant Green Valley Corporation owns the real property located at  
6 or about 705 Tully Rd., San Jose, California, currently.

7       5. Defendant Alejandro Ramos owned Ramos Tire located at or about 705  
8 Tully Rd., San Jose, California, in October 2018.

9       6. Defendant Alejandro Ramos owned Ramos Tire located at or about 705  
10 Tully Rd., San Jose, California, in December 2018.

11       7. Defendant Alejandro Ramos owns Ramos Tire (“Tire Shop”) located at  
12 or about 705 Tully Rd., San Jose, California, currently.

13       8. Plaintiff does not know the true names of Defendants, their business  
14 capacities, their ownership connection to the property and business, or their  
15 relative responsibilities in causing the access violations herein complained of,  
16 and alleges a joint venture and common enterprise by all such Defendants.  
17 Plaintiff is informed and believes that each of the Defendants herein,  
18 including Does 1 through 10, inclusive, is responsible in some capacity for the  
19 events herein alleged, or is a necessary party for obtaining appropriate relief.  
20 Plaintiff will seek leave to amend when the true names, capacities,  
21 connections, and responsibilities of the Defendants and Does 1 through 10,  
22 inclusive, are ascertained.

23  
24       **JURISDICTION & VENUE:**

25       9. The Court has subject matter jurisdiction over the action pursuant to 28  
26 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
27 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

28       10. Pursuant to supplemental jurisdiction, an attendant and related cause

1 of action, arising from the same nucleus of operative facts and arising out of  
2 the same transactions, is also brought under California's Unruh Civil Rights  
3 Act, which act expressly incorporates the Americans with Disabilities Act.

4 11. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
5 founded on the fact that the real property which is the subject of this action is  
6 located in this district and that Plaintiff's cause of action arose in this district.

7  
8 **FACTUAL ALLEGATIONS:**

9 12. Plaintiff went to the Tire Shop in October 2018 (twice) and December  
10 2018 with the intention to avail himself of its goods or services, motivated in  
11 part to determine if the defendants comply with the disability access laws.

12 13. The Tire Shop is a facility open to the public, a place of public  
13 accommodation, and a business establishment.

14 14. Parking spaces are one of the facilities, privileges, and advantages  
15 offered by Defendants to patrons of the Tire Shop.

16 15. Unfortunately, there were no accessible parking spaces marked and  
17 reserved for persons with disabilities in the parking lot at the Tire Shop on the  
18 day of plaintiff's visits.

19 16. On information and belief, plaintiff alleges that there used to be an  
20 accessible parking space in the parking lot, however. Unfortunately, the  
21 defendants have allowed the parking space to fade or get paved over.

22 17. Currently, there is no compliant parking space marked and reserved for  
23 persons with disabilities in the parking lot at the Tire Shop.

24 18. Defendants have failed to maintain in operable working condition those  
25 features of facilities and equipment that are required to be readily accessible to  
26 and usable by persons with disabilities at the Subject Property.

27 19. Plaintiff personally encountered this barrier.

28 20. This inaccessible facility denied the plaintiff full and equal access and

1 caused him difficulty.

2 21. The defendants have failed to maintain in working and useable  
3 conditions those features required to provide ready access to persons with  
4 disabilities.

5 22. The barriers identified above are easily removed without much  
6 difficulty or expense. They are the types of barriers identified by the  
7 Department of Justice as presumably readily achievable to remove and, in fact,  
8 these barriers are readily achievable to remove. Moreover, there are numerous  
9 alternative accommodations that could be made to provide a greater level of  
10 access if complete removal were not achievable.

11 23. For example, there are numerous paint/stripe companies that will come  
12 and stripe an accessible parking stall and access aisle and install proper signage  
13 on rapid notice, with very modest expense, sometimes as low as \$300 in full  
14 compliance with federal and state access standards.

15 24. Plaintiff will return to the Tire Shop to avail himself of its goods or  
16 services and to determine compliance with the disability access laws. He is  
17 currently deterred from doing so because of his knowledge of the existing  
18 barriers. If the barriers are not removed, the plaintiff will face unlawful and  
19 discriminatory barriers again.

20 25. Given the obvious and blatant nature of the barriers and violations  
21 alleged herein, the plaintiff alleges, on information and belief, that there are  
22 other violations and barriers on the site that relate to his disability. Plaintiff will  
23 amend the complaint, to provide proper notice regarding the scope of this  
24 lawsuit, once he conducts a site inspection. However, please be on notice that  
25 the plaintiff seeks to have all barriers related to his disability remedied. See  
26 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
27 encounters one barrier at a site, he can sue to have all barriers that relate to his  
28 disability removed regardless of whether he personally encountered them).

**I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

26. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

27. Under the ADA, it is an act of discrimination to fail to ensure that the privileges, advantages, accommodations, facilities, goods and services of any place of public accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a place of public accommodation. See 42 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- a. A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to remove architectural barriers where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are defined by reference to the ADAAG, found at 28 C.F.R., Part 36, Appendix “D.”
- c. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals

1 with disabilities. 42 U.S.C. § 12183(a)(2).

2 28. Any business that provides parking spaces must provide accessible  
3 parking spaces. 2010 Standards § 208. Under the 2010 Standards, one in  
4 every six accessible parking spaces must be van accessible. 2010 Standards §  
5 208.2.4.

6 29. Here, the failure to provide an accessible parking space is a violation of  
7 the ADA.

8 30. The Safe Harbor provisions of the 2010 Standards are not applicable  
9 here because the conditions challenged in this lawsuit do not comply with the  
10 1991 Standards.

11 31. A public accommodation must maintain in operable working condition  
12 those features of its facilities and equipment that are required to be readily  
13 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

14 32. Here, the failure to ensure that the accessible facilities were available  
15 and ready to be used by the plaintiff is a violation of the law.

16  
17 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
18 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
19 Code § 51-53.)

20 33. Plaintiff repleads and incorporates by reference, as if fully set forth  
21 again herein, the allegations contained in all prior paragraphs of this  
22 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
23 that persons with disabilities are entitled to full and equal accommodations,  
24 advantages, facilities, privileges, or services in all business establishment of  
25 every kind whatsoever within the jurisdiction of the State of California. Cal.  
26 Civ. Code § 51(b).

27 34. The Unruh Act provides that a violation of the ADA is a violation of the  
28 Unruh Act. Cal. Civ. Code, § 51(f).

1       35. Defendants' acts and omissions, as herein alleged, have violated the  
2 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff's  
3 rights to full and equal use of the accommodations, advantages, facilities,  
4 privileges, or services offered.

5       36. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
6 discomfort or embarrassment for the plaintiff, the defendants are also each  
7 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
8 (c).)

9       37. Although the plaintiff was markedly frustrated by facing discriminatory  
10 barriers, even manifesting itself with minor and fleeting physical symptoms,  
11 the plaintiff does not value this very modest physical personal injury greater  
12 than the amount of the statutory damages.

13  
14       **PRAYER:**

15       Wherefore, Plaintiff prays that this Court award damages and provide  
16 relief as follows:

17       1. For injunctive relief, compelling Defendants to comply with the  
18 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
19 plaintiff is not invoking section 55 of the California Civil Code and is not  
20 seeking injunctive relief under the Disabled Persons Act at all.

21       2. Damages under the Unruh Civil Rights Act, which provides for actual  
22 damages and a statutory minimum of \$4,000 for each offense.  
23  
24  
25  
26  
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1           3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
2 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

3  
4 Dated: January 7, 2019

CENTER FOR DISABILITY ACCESS

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6 

7 By: \_\_\_\_\_

8 Chris Carson, Esq.  
9 Attorney for plaintiff